

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MANUEL RODRIGUEZ,

Plaintiff,

- against -

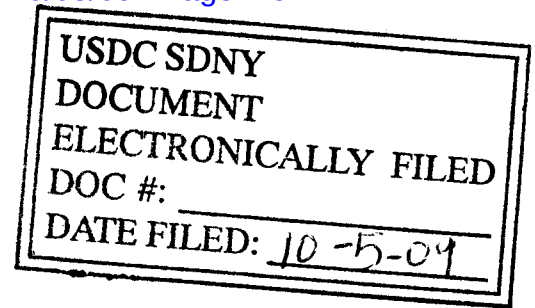
THE CITY OF NEW YORK, COMMISSIONER OF  
POLICE RAYMOND KELLY, INDIVIDUALLY  
AND AS THE POLICE COMMISSIONER OF THE  
CITY OF NEW YORK, POLICE OFFICERS  
CHRISTOPHER GREINER, BADGE NO. 30355,  
INDIVIDUALLY AND AS A POLICE OFFICERS,  
POLICE OFFICER JOSE TORIBIO, BADGE NO.  
10268, INDIVIDUALLY AND AS A POLICE  
OFFICERS; POLICE OFFICER ROBERT  
GREENLEAF, BADGE NO. 30701 (NOW  
DETECTIVE UNDER BADGE 808),  
INDIVIDUALLY AND AS A POLICE OFFICER;  
AND POLICE OFFICERS "JOHN DOE" 1  
THROUGH 4, INDIVIDUALLY AND AS POLICE  
OFFICER, NEW YORK COUNTY DISTRICT  
ATTORNEY ROBERT M. MORGENTHAU,  
INDIVIDUALLY AND AS THE DISTRICT  
ATTORNEY OF NEW YORK COUNTY, AND  
ASSISTANT DISTRICT ATTORNEY SHIRLEY  
IRICK, INDIVIDUALLY AND AS AN  
ASSISTANT DISTRICT ATTORNEY, AND  
ASSISTANT DISTRICT ATTORNEY "JOHN  
DOE", INDIVIDUALLY AND AS AN  
ASSISTANT DISTRICT ATTORNEY,

Defendants.  
-----X

**WHEREAS**, plaintiff MANUEL RODRIGUEZ commenced this action by filing  
a complaint in the Southern District of New York, on or about April 9, 2009, alleging violations  
of his civil rights under federal and New York State laws (the "Federal Action"); and

**WHEREAS**, plaintiff MANUEL RODRIGUEZ also has a pending matter in  
New York State Supreme Court, bearing Index No. 109411/07, entitled Manuel Rodriguez v.  
The City of New York et al., (the "State Action"); and

**WHEREAS**, defendants have denied any and all liability arising out of plaintiff's  
allegations in either the Federal Action or State Action; and



**STIPULATION  
AND ORDER OF  
SETTLEMENT  
AND DISMISSAL**

09 CV 3642 (JRS)

**WHEREAS**, defendant City of New York served plaintiff with a Rule 68 Offer of Judgment on August 18, 2009; and

**WHEREAS**, plaintiff accepted defendant City of New York's Rule 68 Offer of Judgment on September 4, 2009;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. All claims in the above-referenced Federal and State actions asserted by plaintiff Manuel Rodriguez are hereby dismissed, with prejudice, and without costs, expenses, or fees except as specified in paragraphs "2," "3," and "5" below.

2. Defendant City of New York hereby agrees to pay plaintiff Manuel Rodriguez the sum of **Seventy Five Thousand and One Dollars (\$75,001.00)**, plus reasonable attorneys' fees, expenses, and costs, in the Federal Action, up to the date of the Rule 68 Offer, in full satisfaction of all claims against defendants in both the Federal Action and State Action. In consideration for the payment of this sum, plaintiff Manuel Rodriguez agrees to dismissal of all of the claims brought by him against the individually-named defendants in both the Federal Action and State Actions and to release all defendants, any present or former employees or agents of the City of New York, the City of New York or any agency thereof, from any and all liability, claims, which were or could have been alleged by plaintiff in either the Federal Action or State Action, or rights of action arising from the events alleged in the complaints in these actions.

3. Plaintiff has assigned his rights to attorneys' fees, expenses, and costs to his attorney, Linda M. Cronin, Esq.

4. Plaintiff Manuel Rodriguez shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement including, without limitation, a General Release based on the terms of paragraphs "2" and "3" above, an Affidavit Concerning Liens and

a Voluntary Stipulation of Discontinuance for the action pending in New York Supreme Court, bearing Index No. 109411/07.

5. The City of New York also hereby agrees to pay counsel for plaintiff, Linda M. Cronin, Esq., the sum of **Forty Thousand Dollars (\$40,000.00)**, as reasonable attorneys' fees, expenses, and costs in the Federal Action, to the date of the Offer of Judgment referenced in paragraph "2" above. Counsel for plaintiff hereby agrees and represents that no further claim for attorneys' fees, costs, or expenses arising out of Federal Action or the State Action, shall be made by or on behalf of plaintiff Manual Rodriguez up to and including the date of the Offer of Judgment referenced in paragraph "2" above dated August 18, 2009, in any application for attorneys' fees, costs, or expenses at any time in the future.

6. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, any other settlement negotiations.

7. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
September 25, 2009

LINDA M. CRONIN, ESQ.  
ROCCO AVALONE, ESQ.  
*Attorney's for Plaintiff*  
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(516) 358-1700

By: 

LINDA M. CRONIN, ESQ.

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants*  
100 Church Street, Room 3-221  
New York, New York 10007  
(212) 788-1096

By: 

SUMIT SUD  
Assistant Corporation Counsel

SO ORDERED:

  
HONORABLE JED S. RAKOFF  
U.S.D.J.

9-4-09